IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6144 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

GULABSINH N. RATHOD

Versus

G.S.R.T.

Appearance:

MR UPADHYAY for MR MUKESH H RATHOD for Petitioner

MR MD PANDYA for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 22/09/2000

ORAL JUDGEMENT

1. By way of this petition, the petitioner, a driver serving with the respondent -State Road Transport Corporation, has challenged the award of the Labour Court, Nadiad in Reference (LCN) No.687 of 1983 under

Article 227 of the Constitution of India.

2. The learned counsel for the petitioner has vehemently argued that after arriving at the conclusion that the finding of the Inquiry Officer was based on no evidence and that the order of dismissal of the petitioner could not be sustained, there was no justification for the Labour Court to deny the backwages. It is further submitted that the denial of backwages is based upon incorrect and baseless presumption that the petitioner had not suffered any loss and must have been employed after his dismissal.

3. The learned Judge of the Labour Court has, by the impugned award, interfered with the order of punishment in exercise of his powers under Section 11-A of the Industrial Disputes Act, 1947. The discretion under that section includes the discretion to direct reinstatement on such terms and conditions as the Labour Court thinks fit. In the facts of the present case, a view is taken that the respondent would be required to pay compensation to the persons who were actually injured in the accident involving the vehicle driven by the petitioner. The Labour Court has also taken into consideration the admission of the petitioner to the effect that he was earning Rs.50 per month. Considering the overall facts and circumstances and the admission of the petitioner, the Labour Court has preferred not to award any backwages to the petitioner. In view of these facts and circumstances, there is no reason for this Court to interfere with the impugned award in exercise of its powers under Article 227 of the Constitution. Therefore, the petition is rejected. Rule is discharged with no order as to costs.

Sd/-

(KMG Thilake)

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